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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.												
10/801,664	03/17/2004	Elena Peron	38822/GM/ps	3304												
7590 MODIANO & ASSOCIATI Via Meravigli, 16 MILANO, 20123 ITALY			01/10/2008 <table border="1"><thead><tr><th colspan="2">EXAMINER</th></tr></thead><tbody><tr><td colspan="2">MORGAN JR, JACK HOSMER</td></tr></tbody></table> <table border="1"><thead><tr><th>ART UNIT</th><th>PAPER NUMBER</th></tr></thead><tbody><tr><td>3782</td><td></td></tr></tbody></table> <table border="1"><thead><tr><th>MAIL DATE</th><th>DELIVERY MODE</th></tr></thead><tbody><tr><td>01/10/2008</td><td>PAPER</td></tr></tbody></table>		EXAMINER		MORGAN JR, JACK HOSMER		ART UNIT	PAPER NUMBER	3782		MAIL DATE	DELIVERY MODE	01/10/2008	PAPER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/801,664

Applicant(s)

PERON ET AL.

Examiner

Jack H. Morgan

Art Unit

3782

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 10-20 is/are pending in the application.
- 4a) Of the above claim(s) 1-7 and 13-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8 and 10-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 September 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Withdrawal of Claims***

1. Examiner notes that claims 1-5 have been withdrawn in the present revision of the claims, after having been treated in the previous action. As they were voluntarily withdrawn, they have not been treated further. If it was applicant's intent to cancel the claims, applicant should do so in the next amendment to the claims.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 8 and 10-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is not clear what structure is encompassed by the language "Stickpack type".

3. Claims 10-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 10-12 are dependent on claim 9 which has been cancelled. As such, they should now depend on claim 8.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 8, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Center et al. (US 5,078,509) in view of Mobs (US 6,352,364). Center et al. discloses a packaging of the Stickpack type with improved opening, comprising: a flexible film, having at least one layer, which forms a hermetically sealed tubular body with mutually opposite longitudinal film flaps (60), a first sealing band for longitudinally sealing of the body; second sealing bands for sealing transversely to the body (Fig. 3). Center et al. does not disclose an extended protruding region. However, Mobs teaches a tubular type bag (1) having a sealed extension region (8) protruding along a corresponding longitudinal edge of the tubular body from at least one of the second sealing bands; transverse preweakening incisions (11) provided in longitudinal alignment with sealed extension region along at least one of the mutually opposite longitudinal flaps; and wherein the first sealing band is of an inside/inside sealing type. It would have been obvious to anyone having ordinary skill in the art to have an extended region because it is well known in the art of tubular bags and it to have preweakening incisions because it helps with the guidance of tearing.

Regarding claim 9, the modified bag of Center et al. discloses a package wherein the first sealing band is folded and at least partially adheres longitudinally to an outer surface of the tubular body, and wherein an adhesive layer is further provided at the first sealing band for providing adhesion thereof at the outer surface of the body (Col. 1, lines 14-20).

Regarding claim 11, the modified bag of Center et al. discloses a package wherein the adhesive layer is constituted by a sealing film (Col. 1, lines 14-20).

Regarding claim 12, the modified bag of Center et al. discloses a package wherein the adhesive layer is distributed to at least one of the second transverse sealing bands having an adjacent heat-sealed extension region provided with a weakening pre-cut (Col. 5, line 20-45).

5. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Center et al. (US 5,078,509) in view of Mobs (US 6,352,364) as applied to claims 8, 11 and 12 above, and further in view of D.C. Leary, JR (US 6,352,364). Center et al. as modified above disclose all the limitations of the claim except for the adhesive layer being a thermolacquer.

Leary discloses a package wherein the adhesive layer is constituted by a thermolacquer (Col. 14, lines 23-33) in order to create a good seal. Therefore it would have been obvious to one of ordinary skill in the art to create the adhesive layer of Center et al. as modified above with the adhesive layer being a thermolacquer as taught by Leary in order to create a good adhesive seal.

***Response to Arguments***

6. Applicant's arguments, see remarks, filed September 10, 2007, with respect to Hix et al. (US 4,139,643) in view of Mobs (US 6,352,364) have been fully considered and are persuasive. The rejection of claims 1-5 and 8-12 has been withdrawn.

7. Applicant's arguments filed September 10, 2007 have been fully considered but they are not persuasive.

8. Applicant argues that the term "Stickpack type" is clear. He points to a single patent (US 6,352,364) which uses the term. However, examiner notes that the referenced patent does not use the term "Stickpack" but instead uses "sticpac". Furthermore, there are only five published patents or patent applications (the present application included) which use the term "Stickpack" or "sticpac". As such, examiner feels that the term is not well known in the art, and that its use in the claims of the present application is improper. Further, its use appears to be as related to a trademark (as it is capitalized) and trademarks are not permissible in the claims of a patent.

9. Applicant does not argue (or mention) the rejections of Center et al. (US 5,078,509), Mobs (US 6,352,364) or D.C. Leary, JR (US 6,352,364), which the examiner finds to still read on the claimed subject matter (see above).

***Conclusion***

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

11. Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F. R. 1.111, including: "The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, "The prompt development of a clear Issue requires that the replies of the applicant meet the objections to and rejections of the claims." Applicant should also specifically point out the support for any amendments

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made to the disclosure. See MPEP 2163.06 II(A), MPEP 2163.06 and MPEP 714.02.

The "disclosure" includes the claims, the specification and the drawings.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jack H. Morgan whose telephone number is 571-272-3385. The examiner can normally be reached on M-Th 8-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jack H Morgan  
Examiner  
Art Unit 3782

  
NATHAN J. NEWHOUSE  
SUPERVISORY PATENT EXAMINER